

enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States or of all persons within the jurisdiction thereof

In City of Greenwood v. Peacock, 384 U.S. 808 (1966), the Supreme Court provided:

It is not enough to support removal under § 1443(1) to allege or show that the defendant's federal equal civil rights have been illegally and corruptly denied by state administrative officials in advance of trial, that the charges against the defendant are false, or that the defendant is unable to obtain a fair trial in a particular state court. The motives of the officers bringing the charges may be corrupt, but that does not show that the state trial court will find the defendant guilty if he is innocent, or that in any other manner the defendant will be "denied or cannot enforce in the courts" of the state any right under a federal law providing for equal civil rights. The civil rights removal statute does not require and does not permit the judges of the federal courts to put their brethren of the state judiciary on trial. Under § 1443(1), the vindication of the defendant's federal rights is left to the state courts except in the rare situations where it can be clearly predicted by reason of the operation of a pervasive and explicit state or federal law that those rights will inevitably be denied by the very act of bringing the defendant to trial in the state court.

Id. at 827-28 (emphasis added). See also Doe v. Berry, 967 F.2d 1255, 1257-58 (8th Cir. 1992)(same). This Court cannot put its brethren in the state judiciary on trial. Plaintiff's mere unsupported belief that the state court may be discriminating against him on the basis of his national origin is not enough to support removal to federal court. See Neal v. Wilson, 112 F.3d 351, 355 (8th Cir. 1997). Nor can this Court clearly predict, based on the record before it, that plaintiff's rights will inevitably be denied. This case is not one of those rare cases where removal under Section 1443 is possible. Therefore, plaintiff's motion to set aside the Court's Order remanding this case is **DENIED**.

Plaintiff also requests that this case be transferred to a different “division, which is more favorable towards the statutes.” However, the law is clear: plaintiff’s case does not belong in federal court.¹ Plaintiff has not shown any reason why this Court should recuse itself from consideration of plaintiff’s claims. Therefore, the Court **DENIES** plaintiff’s motion to transfer.

Further, the Clerk of the Court is directed to mail by regular and certified mail, return receipt requested, a copy of this Order to Ali Sherkat, 102 NW Greentree Lane, Kansas City, Missouri, 64116.

IT IS SO ORDERED.

/s/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge

Dated: May 19, 2005
Kansas City, Missouri

¹Plaintiff is again cautioned that repeated filing of meritless claims in federal court could result in monetary sanctions. See Fed. R. Civ. P. 11; Beaner v. U.S., 361 F. Supp. 2d 1063 (D. S.D. 2005). Plaintiff is not immune from sanctions based on his status as a pro se litigant. See Burgs v. Sissel, 745 F.2d 526, 528 (8th Cir.1984).